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## **Rule of Law Institutional Strengthening Program (ROLISP)**

# **Functional and Institutional Analysis of the Department of Judicial Administration of the Republic of Moldova**

**Rule of Law Institutional Strengthening Program (ROLISP)**

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# Functional and Institutional Analysis of the Department of Judicial Administration of the Republic of Moldova

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## 1. EXECUTIVE SUMMARY

### 1.1 Analysis Framework

The functional and decision-making analysis at the Department of Judicial Administration (DJA) was carried out in February and March 2013 on the basis of a methodology that draws on the experience of similar analyses carried out in Baltic countries and in the Republic of Moldova from 2005 to 2007.

The functional analysis of DJA included two distinct components: 1) the analysis of the functions of DJA and 2) the analysis of the operating and decision-making processes. The priority, however, was given to the first component.

Because DJA is a small entity, many internal decision-making processes are either inexistent (purchases) or simple and do not require radical reforms.

The conclusions and recommendations of the analysis are in Chapters 2 and 5 of this report.

The analysis covered all DJA's current functions, which are presented in Annex 2 in the form of a complete functional table of the entity. The table shows the cost of each function in terms of human resource and in terms of money. The cost in money was calculated by multiplying the corresponding percentage share of the human resource by the 2012 administrative budget of DJA.

Currently, DJA undergoes a number of structural, organizational and functional changes, the staff turnover is high and new job vacancies are announced. For these reasons, the costs of the functions in terms of human resource and money presented in Annex 2 are valid for the DJA's structure and workload at the moment of the study (February 2013).

The complete functional table is both a tool and an output of the analysis. Before producing it, we discussed each function in detail with the staff to understand its specific characteristics and correlation with other functions. So the functional table also offers a global image of the activities carried out by the DJA's divisions. If in the future some functions will be extended, the table will allow estimating the increased general staff needs. For example, the increase in the number of beneficiaries of a function will require a proportional increase in the effort (full time equivalent or FTE) allocated to this function.

### 1.2 Methodology

The functional analysis followed the functional and decision-making analysis methodology developed and confirmed with ROLISP. Thus, *functions* are typical and

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repetitive activities of an entity that has a concrete beneficiary and a well-defined output.

The function source usually consists of regulatory acts or regulations that establish the entity's right and obligation to carry out certain activities. Nonetheless, the functions described in regulatory acts do not always correspond to the actually performed ones. Moreover, public entities usually have functions that are not explicitly established by regulatory acts, regulations or job descriptions.

By their nature, functions can be grouped in the following categories:

- Policy development and participation in policy development (developing regulatory acts or parts of them);
- Internal coordination (coordinating the internal work of the entity);
- External coordination (coordinating the work of the entity with other partners);
- Regulation (establishing rules, controlling compliance, preparing disciplinary and procedural acts, etc.);
- Services (providing services to third parties or other entities);
- Internal support (supporting the work of sections and divisions);
- External support (supporting the basic functions of partners).

During the functional analysis, we classified functions by their categories. Then, we carried out a number of tests with each identified function: compatibility test, rationality test, usefulness test, etc. We identified lacking functions (those that should exist but were not identified), insufficient functions (those that should be extended in the future) and redundant functions.

The function identification questionnaire (Annex 3) was the main tool for identifying functions. On the whole, 4 copies of the questionnaire were filled out at the level of the DJA's structural units (1 by the chief, 1 by the Judicial Statistics Service and 2 by the Courts Administration Directorate).

To provide a realistic functional profile of the DJA, the respondents described the functions established in the DJA's Regulations as the basic source of functions and some functions that, though not expressly established by the Regulations, are also carried out.

Later we visited these internal structural units to discuss each function mentioned in the questionnaire in detail, with examples of the activities and outputs.

For each described function, the chiefs of the structural units specified the percentage from the total effort of the division/directorate/service allocated to this function. This percentage, additionally confirmed during visits, served as the basis for mathematical

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calculation of the cost of the respective function in MDL. The calculation methodology is described in Annex 4.

### **1.3 Existing Reports**

In March 2009, the Moldova Governance Threshold Country Program formulated recommendations on the medium-term development plan for DJA. Since many of them are still valid we included them in this report, whenever possible.

### **1.4 Functional Conflicts**

The functional analysis methodology and the good governance principles require testing the compatibility and rationality of each identified function. The compatibility test implies the idea that the same entity may not carry out both regulatory functions and service provision functions or develop policies and implement them. The rationality test checks the necessity of a function for the strategic mission of the entity.

We identified no such functional conflicts at DJA.

### **1.5 Functions that Should be Cancelled**

A possible reform currently discussed is the transfer of DJA into the subordination to the Superior Council of Magistracy.<sup>1</sup> This involves the review of the regulatory framework of DJA, including its Regulations, which may change the functional profile of the entity.

The current functions that will be cancelled as a result of the transfer include examining petitions that do not fall in the competence of DJA, representing the Ministry of Justice in court proceedings in which it is a plaintiff or a defendant, filing and carrying out disciplinary procedures related to judicial ethics and for the violation of trial time frame. More details in Chapters 2 and 3.

### **1.6 New Functions**

The functional and decision-making analysis identified functions that, though currently inexistent, are necessary for the judiciary to function smoothly and to consolidate its self-administration.

For example, the judicial statistics analysis should be extended and perfected to include the production of narrative or textual analyses, the trends analysis and the formulation of strategic proposals based on observed phenomena and statistical trends for SCM.

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<sup>1</sup> The transfer will occur in accordance with the Justice Sector Reform Strategy for 2011-2016 and Decision No. 683/33 of March 26, 2013 of the Superior Council of Magistracy. In line with this decision a draft law was developed to amend and supplement certain legislative acts. Article 3 of this draft law explicitly stipulates the transfer of DJA into the subordination to SCM.

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There are talks to establish the function of purchasing goods and services for courts centrally in DJA. This idea is justified by the possibility of gaining savings and signing more favorable agreements due to volume discounts. Establishing centralized purchase, however, should be carefully considered beforehand to determine its cost-benefit.<sup>2</sup>

Unlike purchasing basic goods and services, capital repairs and investments pose a greater challenge for courts in terms of their administrative and purchase capacity. This difference between courts is large and will not disappear in the medium or long run. Establishing a centralized capital spending planning for courts and a corresponding unit or staff positions in DJA is a good idea.

To establish these functions officially, it is necessary to revise the regulatory framework of DJA and to put new positions on its staff list.

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<sup>2</sup> For example, one should take into account the expenses for hiring and training responsible staff and other related costs.



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## **2. GENERAL CONCLUSIONS**

### **2.1 The Regulatory Framework of DJA**

DJA is an administrative authority that currently has the status of legal entity subordinated to the Ministry of Justice.

It was established under Government Decision No. 670 of June 15, 2007 “On Creating the Department of Judicial Administration” and does not have its own statute law.

DJA functions in accordance with Regulations approved through Government Decision No. 1202 of November 6, 2007 “On the Approval of the Regulations of the Department of Judicial Administration.” Some duties of DJA are established through Law No. 514-XIII of July 6, 1995 “On the Judicial Organization.”

The new structure of DJA was confirmed through Order of the Ministry of Justice No. 543 of December 11, 2012. On the basis of this structure, in January 2013, the State Chancellery approved and accepted the staff list.

### **2.2 The DJA’s Current Organizational Structure and Human Resources**

According to new staff list, DJA is composed of:

- chief (1 position)
- Courts Administration Directorate (7 positions)
- Judicial Statistics Service (2 positions)
- Financial Management and Audit Service (1 positions)

On the whole the new staff list has 11 positions or 2 positions fewer than before. The employees of DJA have the status of civil servant.

The actual organizational structure was as follows:

- chief (1 position)
- Courts Administration Directorate (5 positions) with obvious specialization in the following fields:
  - Financial activities, such as integrating courts’ budgets, preparing funding plans, etc. (2 positions)
  - Legal activities, such as examining petitions, cases involving discipline and the judicial ethics, representing petitioners before SCM and courts (3 positions)
- Judicial Statistics Service (2 positions)

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Because of the recent organizational changes and staff dismissals and retirements, the staff turnover in DJA is high. At the time of the analysis, DJA had 8 staff and 3 vacancies (2 consultants in the Courts Administration Directorate and 1 consultant in the Financial Management and Audit Service). In addition, 3 employees were expected to retire (2 consultants in the Court Administration Directorate and 1 consultant in the Judicial Statistics Service). Accordingly, announcements were made to fill these 3 vacancies.

Although the Courts Administration Directorate is not formally divided in divisions, in daily work this segregation exists (financial activities and legal-organizational activities). For the purpose of the functional analysis, these two areas of activity were addressed as separate divisions for a better grouping and classification of the functions.

The human resource is insufficient and does not correspond to the current workload of the DJA and the employees stated that they often had to work overtime.

## **2.2 The Functional Duties of DJA**

The duties of DJA are established in Chapter 2 of its Regulations. However, the Regulations are obsolete and do not reflect the functional profile of DJA accurately. In addition, the Regulations let DJA carry out duties intended to develop the judicial system and that are not included in the list.

The following is a summary of these duties with comments about their actual performance.

*Table 1. Duties regulated in the DJA's Regulations and those actually performed.*

Duty	Comment
<b>Duties required by the DJA's Regulations</b>	
a) Study of the organizational work of courts and formulate proposals to improve it.	Carried out.
b) Establish spending caps, gather, check and total up draft budgets of courts and submit them to the Ministry of Justice and the Superior Council of Magistracy for analysis, proposals and approval.	Carried out in full.
c) Keep the record and analyze judicial statistics.	Statistics are collected in full. The duty should be extended. More details in Chapter 4.
d) Develop the form for keeping the record of the judicial statistics and submit it to the Ministry of Justice for approval.	Carried out.
e) Prepare quarterly and annual judicial statistics reports and submit them to stakeholders and publish them on the Web site of the Ministry of Justice.	Carried out in every 6, 9 and 12 months.
f) Monitor archive work.	Not carried out.
g) Monitor secretarial work.	Carried out to little extent
h) Provide methodological assistance for keeping the record of legislation and judicial practice.	Not carried out.
i) Cooperate with other entities to train the administrative staff of courts of law.	Carried out in full.
j) Receive citizens and examine petitions within the competence.	Carried out even beyond the competence.
k) Participate in implementing the judicial information system in all courts.	Carried out.
l) Provide methodological and training assistance for court staff in order to use the judicial information system.	Carried out.
m) Submit the courts' staff lists to the Ministry of Justice for approval.	Carried out.
n) Write reports on the organizational, administrative and financial work of courts of law and submit them to the Ministry of Justice and the Superior Council of Magistracy.	Carried out.
o) Establish and maintain relations with public authorities and other bodies, entities and organizations, including foreign ones, to improve the organization of the work of courts and to streamline the work of the Department.	Carried out.
<b>Duties that, though not required by the Regulations, are carried out</b>	

Duty	Comment
Plan capital spending of courts.	
Report for JSRS for 2012-2016 and other strategic documents.	
Provide information at the request of the Government.	
Approve or develop regulatory acts.	
Consolidate financial reports of courts.	
Initiate and carry out disciplinary procedures.	
Represent the Ministry of Justice and courts in legal proceedings.	

The actual functions identified during the analysis of DJA can be grouped in accordance with their nature in 4 categories:

1. Statistical integration and reporting by sector
2. Budget planning and reporting
3. Methodological support and assistance for courts
4. Support for the Ministry of Justice and courts in examining petitions, applying disciplinary procedures, etc.

These categories require approximately the same administrative effort and time. The current Regulations focus mainly on functions in category 3. The functions in category 4 are not regulated; yet they consume even more time than those in any of the other categories.

The recommendations in the 2009 medium-term development plan for DJA divide the conceptual functions of DJA in 4 categories, namely:

1. Assistance for courts and development of their capacities
2. Management of the budget and human resource
3. Statistical analysis
4. Public relations

The planned transfer of DJA into the subordination to the Superior Council of Magistracy offers the opportunity to revise the regulatory framework in order to ensure a better correspondence between the actual functions, those that are necessary in the future and those that are regulated.

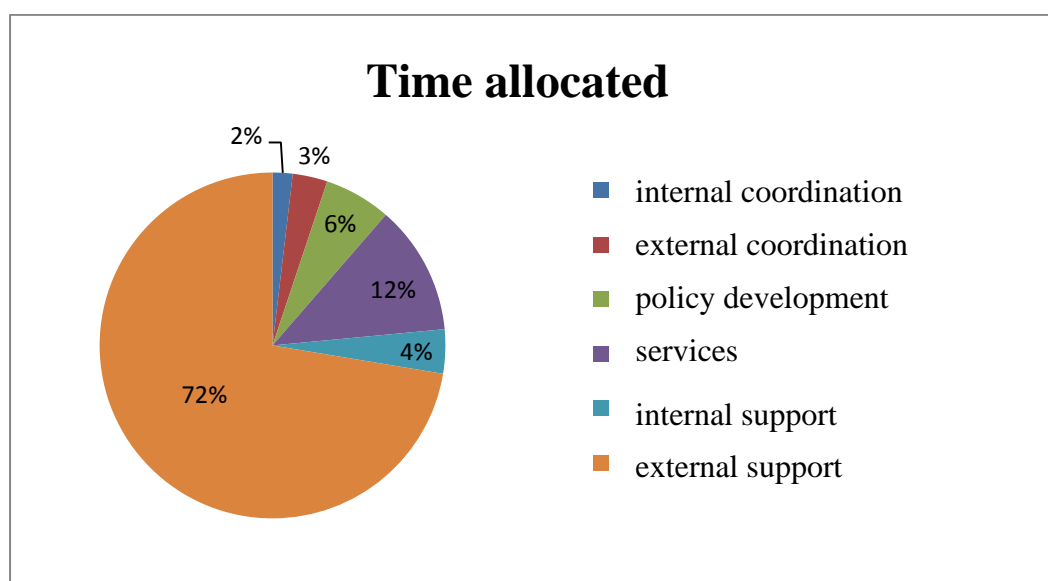
## 2.3 Functional Statistics

The 3 structural units of DJA along with its management carry out 39 functions in total.

*Table 2. The DJA's functions by category.*

Category	Number of functions
Internal coordination	3
External coordination	2
Policy development or participation in policy development	3
Services	5
Internal support	2
External support	24

*Graph 1. The function categories of DJA in accordance with the time allocated to them.*



*Table 3. The cost of the DJA's functions by categories.<sup>3</sup>*

Category	Annual cost, MDL
Internal coordination	25,706
External coordination	44,558

<sup>3</sup> The total cost of all functions in each category. More details on the methodology of calculating the costs of functions are in Annex 4.

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Policy development	<b>85,688</b>
Services	<b>166,234</b>
Internal support	<b>56,554</b>
External support	<b>992,261</b>

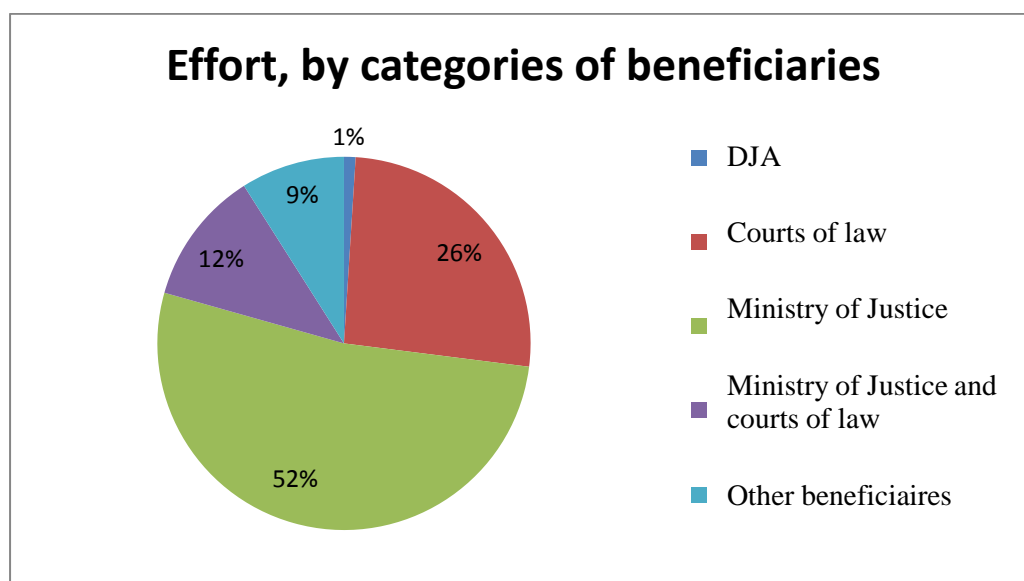
Most functions of DJA fall under external support category (62 percent of the total number and 72 percent of the total effort), which is natural for a central entity implementing policies.

Each function of DJA has a concrete beneficiary.

*Table 4. The DJA's functions by beneficiary*

<b>Beneficiary</b>	<b>Number of functions</b>
DJA	<b>2</b>
Courts	<b>12</b>
Ministry of Justice	<b>16</b>
Ministry of Justice and courts	<b>4</b>
Other	<b>5</b>

Graph 2. The beneficiaries of the DJA's functions by effort (time) allocated for them



This simple graphic analysis shows that more than 50 percent of the work time of DJA goes to the functions whose direct beneficiary is the Ministry of Justice and only approximately 26 percent goes to the functions whose direct beneficiaries are courts. Examining petitions—a genuine burden for DJA—takes 13 percent of the total work time.

With the transfer of DJA into the subordination to SCM, the situation will change drastically. More functions will serve courts and fewer functions will serve the Ministry of Justice. Only the functions of participating in some working groups, reporting on the Justice Sector Strategy Reform for 2011-2016 and participating in developing the medium term budget framework will remain.

### 2.3 The Place of the Functions, Their Compatibility and Conflicts of Interests

For a better use of public funds, the functional analysis methodology implies checking the possibility to transfer some functions to other entities, either public or private.

Analyzing each function in terms of its category, quality and manner of fulfillment, including the level of cooperation with other entities, we found out that such a transfer is not recommended. The private sector or other state entities cannot fulfill the functions of DJA more efficiently.

The methodology requires checking the compatibility of all identified functions to identify possible conflicts of interests. For example, it is generally inadmissible to join regulatory functions with those of service provision. We did not find such conflicts of interests in DJA.

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In addition to the service provision functions and those of external and internal support we identified coordination functions. Their detailed analysis has not revealed internal conflicts of interests.

Two functions that may be interpreted as policy development and participation in policy development raise some concern. These functions are “1.10 Develop draft regulatory acts” and “3.5 Approve draft regulatory acts and develop parts of them” (Annex 2). According to the Justice Sector Reform Strategy and good governance principles, developing policies (laws, administrative acts, etc.) is an exclusive prerogative of ministries. With the transfer of DJA into the subordination to SCM, this problem will disappear.



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### **3. THE FUNCTIONS OF DJA'S STRUCTURAL UNITS**

#### **3.1 Administration of DJA**

DJA is managed by a chief with functions specific to this position, such as planning, organizing and coordinating the subordinates' work, motivating, controlling and assessing the work of DJA. Additionally, the chief works much to actually carry out the daily tasks of DJA. The percentage of these activities in the total effort is large due to the extremely small size of DJA.

In terms of the functions category, the chief carries out 3 coordination and 6 support functions.

The chief uses 40 percent of his work time for activities explicitly established in the DJA's Regulations and 60 percent for related activities requested by the Ministry of Justice, such as:

- Representing the Ministry in court proceedings
- Examining petitions, including those that do not fall in the competence of DJA
- Participating in additional activities, commissions and working groups
- Participating in legal proceedings

With the transfer of DJA into the subordination to SCM, 4 support functions whose current beneficiary is the Ministry of Justice will disappear partially or completely. This will allow DJA to focus better on its basic mission.

#### **3.2 Courts Administration Directorate: Financial Activities**

2 consultants in economics and finance from the Courts Administration Directorate perform mainly financial activities. For convenience, these positions were analyzed separately from the other staff. In the future it will do well to establish, in the Courts Administration Directorate, a financial division composed of the 2 positions currently in place. The "division" carries out 11 functions of which 9 are external support and 2 coordination functions. The general functional profile is well balanced. All the 11 functions correspond exactly to the Regulations and the basic mission of DJA.

The basic task of the division is to plan funds for courts and to control their use. Currently, courts manage their budgets themselves. DJA's role is to control these processes (2 coordination functions) and to integrate financial information in plans and reports (the rest of the functions).

The staff of the division does not have atypical functions, such as examination of petitions, ad-hoc presentation of information, etc.

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The formal beneficiary of approximately half of the functions is the Ministry of Justice. After the transfer of DJA into the subordination to SCM, the functions will remain unchanged. SCM will become the beneficiary of some of them.

However, the Ministry of Justice will continue to be the beneficiary of 2 functions related to compiling information and reporting on the medium-term budget framework (“2.4 Develop, update and report on the implementation of actions planned in the MTBF” and “2.5 Participate in the working group for developing the 2014-2016 MTBF for the Ministry of Justice”). This is because, though SCM is independent of the Ministry of Justice, the latter is responsible for developing the spending plan for the justice sector.

### **3.3 Courts Administration Directorate: Legal Activities**

The other 3 employees in the Courts Administration Directorate are specialized in legal matters and deal with administrative, organizational and legal activities. For convenience, these positions are referred to as “legal division” in the report.

The division has 7 functions of which 5 are internal and external support, 1 is policy development and 1 service provision, namely examining petitions. The latter consumes 15 percent of the total work time of the division.

Most of the working time goes to 3 basic functions:<sup>4</sup>

- 3.1 Initiate and ensure disciplinary procedures in respect of the judiciary at the request of legal entities (assistance for the Ministry of Justice in these processes)
- 3.2 Represent the Ministry of Justice in court and prepare procedural documents in cases in which the Ministry is a plaintiff or a defendant and in cases related to Laws No. 1545 and No. 87 for judges’ one-off benefits and land plots of courts
- 3.7 Examine citizens’ petitions related to violations of time frames and receipts of compensations for damages

These functions are carried out in behalf and at the request of the Ministry of Justice. With the transfer of DJA into the subordination to SCM, it is possible that function 3.1 will remain and function 3.2 will be eliminated due to a possible conflict of interests.<sup>5</sup>

It is worth mentioning that functions 3.1 and 3.2, though carried out, are not explicitly established in the DJA’s Regulations.

Function 3.1 should be perfected. Disciplinary procedures take much administrative effort. We recommend regularly publishing the statistics on (a) the actual application of punishments and (b) subsequent appeals and annulment of disciplinary actions. This

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<sup>4</sup> More information in Annex 2.

<sup>5</sup> Soon the Ministry of Justice will officially take on the responsibility of managing administrative cases.

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would mitigate social tensions and would improve the image of the judiciary in the civil society.

Function “3.3 Manage human resource, namely develop job descriptions and establish performance criteria, assess DJA employees’ performance, conduct employment competitions” is not carried out in this division. Normally, if DJA were a sufficiently large organization to have its own human resource service, this function should be transferred to this service.

### **3.4 Judicial Statistics Service**

At the time of the analysis, the Judicial Statistics Service had 2 staff specialized in statistics and public administration.

The basic task of the Service is aggregating statistics submitted by courts and compiling quarterly statistical reports in the form of Excel spreadsheets structured by courts. They can be accessed at the Web site of the Ministry of Justice (<http://justice.gov.md/pageview.php?l=ro&idc=56&>).

The Service has 10 functions of which 6 are external support and 2 service provision. The external support functions take 75 percent of the work time of the Service. Two of the identified functions are policy development. With the transfer of DJA into the subordination to SCM, these functions will be eliminated.

The current beneficiary of 5 functions is the Ministry of Justice. With the transfer of DJA into the subordination to SCM, functions “1.6 Execute ad-hoc instructions of the Ministry of Justice, including the presentation of information” and “1.8 Approve draft regulatory acts at the request of the Ministry of Justice”<sup>6</sup> will be eliminated.

The main beneficiary of the other functions (“1.1 Report on the implementation of the Justice Sector Reform Strategy, Pillar I” and “1.3 Assistance provided to the Ministry of Justice to implement provisions of the JSRS (implementation control, study organization and maintenance of Web sites and Femida system)”) will be SCM and courts.

Examining petitions received directly from the public or through the Ministry of Justice, including those that are not direct duties of DJA, takes 15 percent of the work time. The transfer of DJA will stop this inflow and will allow the staff to focus on their direct duties related to the basic mission of DJA.

The oncoming retirement of the employee responsible for collecting statistical reports from courts and preparing quarterly reports may disrupt the basic mission of the Service.

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<sup>6</sup> More information in Annex 2.

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A function that was not identified and yet would streamline and perfect the work of the Judicial Statistics Service is textual or narrative interpretation of the aggregate statistical spreadsheets produced by the Service. The importance of this function for optimizing the judiciary is very high. More information in Chapter 4 point 4.4.

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## **4. CONCLUSIONS AND RECOMMENDATIONS OF THE DECISION-MAKING PROCESSES**

### **4.1 General decision-making and functional processes**

DJA's two specific characteristics, which considerably differentiate it from most public entities subordinated to ministries, are:

1. Extremely small size of DJA because of which many decision-making processes existing in large entities are either inexistent or simple as scale and complexity in DJA
2. Close organizational and functional connection between DJA and the Ministry of Justice

The latter is the result of the former. The organization chart of the Ministry of Justice published on its Web site represents DJA as an internal structural unit. There is a symbiotic relationship between the two. At the functional level, currently, DJA carries out many activities at the request or in behalf of the Ministry of Justice. Conversely, the Ministry of Justice is in charge of and carries out some internal decision-making processes necessary for DJA.

Internal decision-making usually includes purchasing goods and services, staff procedures, internal planning, reporting, internal budgeting, internal coordination, etc.

#### **Internal Budget Planning and Internal Procurement**

DJA does not have an internal accounting service and does not manage its own budget. So it is the Ministry of Justice that purchases goods and services necessary to DJA. The infrastructure of DJA is underdeveloped. Office supplies are insufficient.

#### **Staff Management**

Formally, the function of staff hiring and management in DJA is placed in the Ministry of Justice. The latter, however, only announces competitions for filling job vacancies while DJA prepares and processes competition materials.

#### **Internal Planning**

DJA develops an annual work plan that is then approved by the Ministry of Justice. DJA's draft 2013 Work Plan is well-structured and contains all necessary modern elements. Its structure follows that of the Action Plan for the implementation of the Justice Sector Reform Strategy for 2011-2016, which is a strong point and an advantage. The plan is, perhaps, even more complex than necessary for internal coordination and organization,

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if we take into consideration the extremely small size of DJA. Each activity in the Work Plan has relevant monitoring and assessment indicators. The Plan also includes output and outcome indicators, which is a modern and positive aspect of planning.

Certain specific functions in the Plan are related to the mission and duties of DJA as per the Regulations; other actions will be carried out by DJA jointly with the General Legislation Directorate of the Ministry of Justice. This is both the result and confirmation of the close organizational and functional relationship between DJA and the Ministry of Justice.

### **Internal Reporting**

DJA develops quarterly collective performance assessment reports, which the Ministry of Justice later approves. These reports are in the form of tables showing the established objectives, monitoring indicators, terms, responsible persons and a brief description of the implementation level (2-3 sentences for each objective).

We recommend that, with the transfer of DJA into the subordination to SCM, DJA also develop annual textual or narrative reports containing graphical representations of the main output indicators. Considering the small size of DJA, the reports do not need to be complex. Five or eight pages would be enough.

### **Internal Coordination**

Internal coordination takes place through periodic staff meetings and ad-hoc thematic meetings. Due to its small size, DJA does not need more complex coordination mechanisms such as periodic coordination, planning and reporting meetings. The communication lines are short and the communication of the management of DJA with the staff of DJA is direct.

## **4.2 Human Resource Development**

As mentioned before, DJA has 11 staff on its actual staff list. The staff turnover is high. At the time of the analysis, 3 out of 8 employees were expected to leave soon. For any entity the situation in which it has more vacancies than employees (6 in comparison with 5) is a challenge. The entity will have to find and to train new employees.

Another challenge is creating an audit division and hiring a properly qualified person for it (1 position on the staff list). The job requirements for this position are very high and include frequent travels around the country. Since the private sector offers much better remuneration for such requirements, it will be difficult to hire a person with the necessary qualification ready to accept such conditions.

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DJA uses both job descriptions and individual performance criteria developed and approved by the chief.

The current staff is competent and capable. Nevertheless, employees have had different in-service professional training. Some of them participated last year in an impressive number of courses, conferences and other training events they had found themselves. Others did not benefit of trainings to the same extent due to large workload. However, they showed interest in future training. Because DJA does not manage its own budget, it cannot plan paid training events and allocate corresponding funds in the funding plan.

The necessary topics for training include:

1. Public management and public administration
2. Internal audit
3. Public procurement (if centralized procurement for courts is established, this topic will become particularly important)
4. Development of investment projects, including for reconstructions and the constructions; reconstructions management cycle
5. Statistical analysis
6. MS Excel
7. English (to be efficient, however, such courses should be intensive and last for a longer time, which is financially unacceptable)

#### **4.3 Documents Organization and Information Technology Use**

Paper documents organization is good. They are classified, indexed and stored in a rational manner.

Work practices and computer literacy are satisfactory but there is room for improvement through training, particularly in using MS Office.

Although DJA has computers, their performance is poor. There were cases when computers broke down leading to data loss. Some computers have obsolete operating systems and MS Office suits that are no longer supported by the manufacturer (Windows XP, MS Office 2003). Not all computers have spellcheckers. The quality of Internet connection is low, with frequent cut-offs and a slow speed.

#### **4.4 Aggregating Judicial Statistics**

As mentioned before, one of the strategic priorities of DJA is collecting, compiling and aggregating judicial statistics. This involves many components, including assisting judges in managing information systems and methodological assistance for court staff.

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Many components of this process can be improved and developed but some exceed the possibilities of DJA.

Thus, any automated statistical process starts with generating primary data. The Integrated Case Management System (ICMS) offers the necessary toolkit but some courts do not use it fully for various reasons, including reluctance, lack of time, insufficient knowledge and lack of skills. Training and knowledge sharing (control tools accessible to DJA) may remove this problem only in part.

For automated data collection to occur, it should involve all primary data sources so the primary method of collecting data by means of letters/tables will persist in the near future. Courts use the regular mail for that. Some courts fill out tables manually. Courts with necessary capabilities also send spreadsheets. Often the spreadsheets contain wrong entries, formulas, templates, etc.

The staff of DJA offers considerable advisory support for courts to submit primary statistics. Additionally, we recommend developing template Excel spreadsheets with protected cells and formulas.<sup>7</sup> The second part of the statistical analysis consists in compiling and consolidating primary data and producing statistical reports. The staff has the skills for this task. Primary data is compiled in spreadsheets available exclusively on the Web site of the Ministry of Justice.

(<http://justice.gov.md/pageview.php?l=ro&idc=56&id=1104>).

The third stage of the statistical analysis is interpreting the consolidated data, which implies (a) comparing figures from different courts at the same moment and (b) consolidating them and comparing with previous years. It is necessary to identify and isolate trends and if the general picture differs from that of the previous year it is necessary to identify and isolate so-called deviations or phenomena. A competent specialist must analyze all these deviations and identify their cause, which may be a simple fluctuation, a general trend for the system, a specific trend in the respective district of the republic or an increase or decrease in performance. Following the analysis the staff prepares a narrative report with well-justified findings. Decision-makers will use this report to outline the reforms necessary for the sector, such as the increase in the number of courts and support staff, allocating funds more efficiently, optimizing court administration, etc.

Unfortunately, this important analytical stage is absent. The statistical analysis inside DJA is finalized by producing consolidated statistical spreadsheets. Without a detailed

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<sup>7</sup> A typical example is the income tax declaration form

([https://servicii.fisc.md/DF\\_DocumentViewer.aspx?id=64d26a0a-a2b3-4820-b2af-85530bf94dfc](https://servicii.fisc.md/DF_DocumentViewer.aspx?id=64d26a0a-a2b3-4820-b2af-85530bf94dfc)).



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and well-justified narrative analysis, the usefulness of these reports for SCM is limited. When ICMS is used in full and the statistical reporting module is implemented, DJA will need only to interpret statistics.

#### **4.5 Court Budget Administration**

DJA offers methodological assistance to courts in presenting information and financial reports. According to the staff of DJA, previous trainings were not particularly effective. The capabilities of the courts' staff differ greatly and in the courts with capable staff the trainings were quick and the work is efficient.

In the near future, DJA intends to apply good practices taken from some courts to all courts. This is a good approach. Our recommendation to develop MS Excel template spreadsheets with protected formulas and cells is valid in this respect too.

The greatest problem of the staff of DJA is formulating investment budgets (reconstructions and capital repairs in courts). The administrative planning, budgeting and reconstructions cycle is complicated and requires excellent administrative skills and knowledge in many areas, such as preparing terms of reference and expense estimate, budgeting this estimate, organizing tenders and carrying out technical control of works. The capability gap between courts in this respect is yawning.

According to DJA, currently, it is the courts' capacity to uptake rather than the availability of funds that hinders capital repairs and investments. Few courts possess capability, knowledge and time necessary to follow the cycle of reconstruction or capital repair management closely. The necessary funding goes to courts able to plan capital investment (including to develop the technical project and to carry out a feasibility study in advance).

This situation is unacceptable because it favors and deepens the division between the winners and the losers. Since the gap between technical capabilities of different courts will not diminish in the near future, a practical solution would be to establish and institutionalize the centralized capital spending planning for the system in DJA and to hire the necessary staff.

This function would:

- a) Use the 2009 and 2012 technical censuses of courts' infrastructures as the basis;
- b) Estimate preliminary costs of partial and total rehabilitation of infrastructure;
- c) Approve, in consultation with SCM, the rehabilitation strategy, which may be based either on concurrent small renovations in many courts or on phased major reconstructions in just a few courts, in accordance with their conditions and needs. The reconstruction strategy should take into consideration the workload

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of the respective courts estimated by the Judicial Statistics Service on the basis of the identified trends;

- d) Develop a medium-term reconstruction plan within the limits of the funds available in the MTBF.

During discussions, DJA mentioned the future possibility to establish a mechanism for centralized procurement of goods and services for courts or centralized accounting.

Indeed, centralized procurement may save money and increase the quality of purchased goods and services if it is well-organized and well-thought. The agreements should have clear and explicit clauses about the direct delivery of goods and services to each court. If companies without the necessary networks in the districts win the tenders, the centralized procurement will create more problems than gains.

As for the centralized accounting, this would make the internal audit of courts by DJA, planned in the future, useless because assigning the budgetary self-administration function to a central unit will eliminate the object of the internal audit.

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## ANNEX 1. PROPOSED ORGANIZATIONAL STRUCTURE

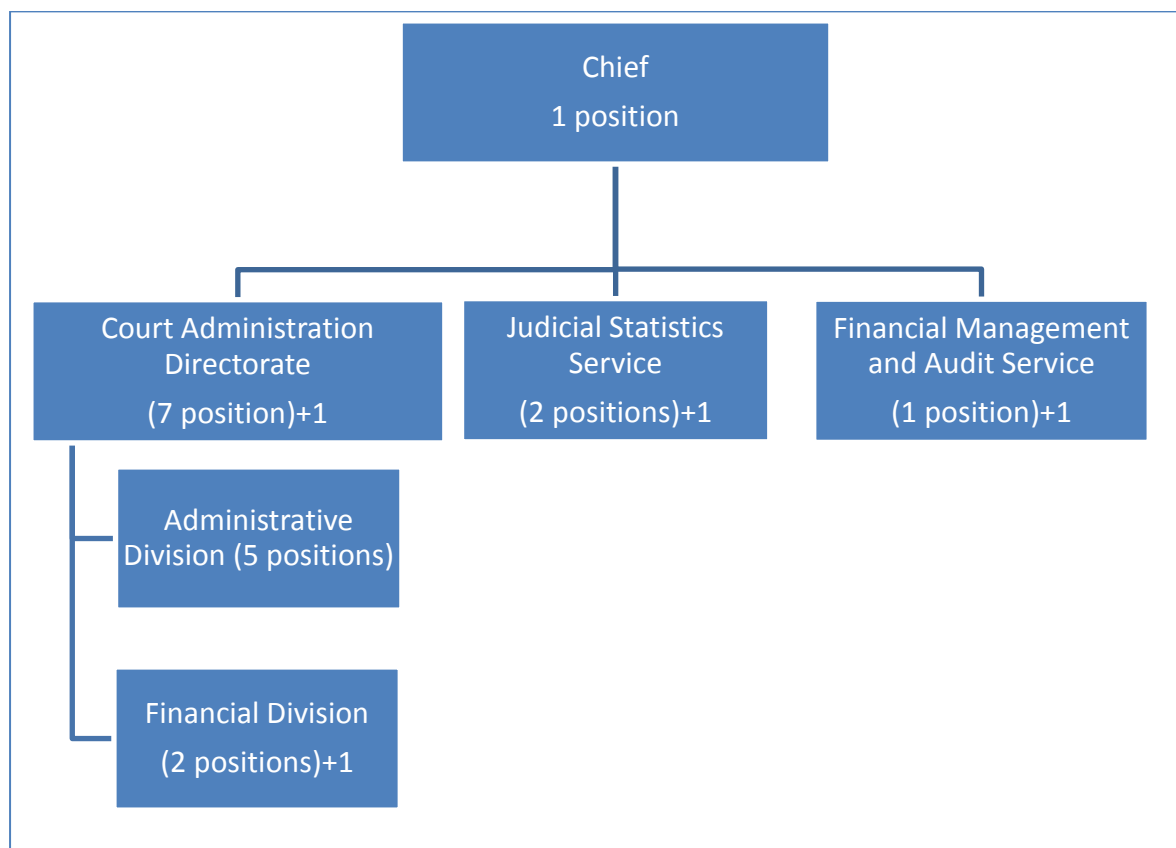
### Narrative description

The difference from the current staff list is outlined **in bold**.

- chief (1 position)
- Courts Administration Directorate (7 positions) + **1 position**
  - Administrative division (5 position)
  - Financial division (2 positions) **(+1 position: consultant in capital investment planning)**
- Judicial Statistics Service (2 positions) **(+1 position: consultant in interpreting statistics and writing narrative analytical reports for SCM)**
- Financial Management and Audit Service (1 position) **(+1 position: driver)**

Total: **14 positions.**

### Organization Chart



## ANNEX 2. COMPLETE FUNCTIONAL TABLE WITH COSTS AND RECOMMENDATIONS

Code	Functions	The function is established by Regulations	The function is established by another source	Beneficiary of the function	Function outcome	Percentage share in the workload of the division	Function category	Full-Time Equivalent	Financial cost of the function . thousand of MDL/year	Recommendation (more details in the report)
1.0	<b>JUDICIAL STATISTICS SERVICE (2 POSITIONS)</b>									
1.1	Report on the implementation of the Justice Sector Reform Strategy, Pillar I.		*	Ministry of Justice	Implementation of the Strategy discussed at WG meetings	10%	External support	0.20	34.275	Preserve
1.2	Report on the implementation of other strategic documents (human rights plan, annual plan of the MJ/Government).		*	Government	Reports prepared	10%	External support	0.20	34.275	Preserve
1.3	Assistance provided to the Ministry of Justice to implement provisions of the JSRS (implementation control, study organization and maintenance of Web sites and Femida	*	*	Ministry of Justice, courts of law	Actions implemented	10%	External support	0.20	34.275	Reduce in part and change the beneficiary

Code	Functions	The function is established by Regulations	The function is established by another source	Beneficiary of the function	Function outcome	Percentage share in the workload of the division	Function category	Full-Time Equivalent	Financial cost of the function . thousand of MDL/year	Recommendation (more details in the report)
	system).									
1.4	Provide methodological assistance and training in using the judicial information system.	*	*	Courts of law	The judicial information system efficiently applied	15%	External support	0.30	51.413	Preserve
1.5	Examine petitions/addresses related to direct functions of DJA		*	Individuals and legal entities	Petitions examined and answered	10%	Services	0.20	34.275	Preserve
1.6	Execute ad-hoc instructions of the Ministry of Justice, including the presentation of information, etc.		*	Ministry of Justice	Instructions implemented	10%	External support	0.20	34.275	Remove
1.7	Monitor the functionality and develop the judicial information system.		*	Courts of law	Information system functional and efficient	20%	External support	0.40	68.550	Preserve
1.8	Approve draft regulatory acts at the request of the Ministry of Justice.		*	Ministry of Justice	Drafts approved	5%	Participation in policy development	0.10	17.138	Remove

Code	Functions	The function is established by Regulations	The function is established by another source	Beneficiary of the function	Function outcome	Percent age share in the workload of the division	Function category	Full-Time Equivalent	Financial cost of the function . thousand of MDL/year	Recommendation (more details in the report)
1.9	Examine petitions in respect of judges' actions, judicial ethics, including redirecting them, proposing disciplinary actions, at the request of the Ministry of Justice.	Not provided for	Not provided for	Individuals and legal entities, Ministry of Justice	Petitions examined and answered	5%	Services	0.10	17.138	Remove
1.10	Develop draft regulatory acts.	Not provided for	Not provided for	Ministry of Justice	Drafts developed	5%	Policy development	0.10	17.138	Remove
2.0	<b>COURTS ADMINISTRATION DIRECTORATE: FINANCIAL WORK (2 POSITIONS)</b>									
2.1	Consolidate financial reports of courts of law and present the final report to the Ministry of Justice for 6, 9 and 12 months.	*	*	Ministry of Justice	Final report submitted	20%	External support	0.40	68.550	Change the beneficiary
2.10	Control that courts use funds in accordance with their designation.		*	Courts of law	Funds used properly	5%	External coordination	0.10	17.138	Preserve
2.11	Provide methodological assistance to chief accountants in courts to keep the accounting properly and to manage funds		*	Courts of law	The system for accounting organization and	10%	External support	0.20	34.275	Preserve

Code	Functions	The function is established by Regulations	The function is established by another source	Beneficiary of the function	Function outcome	Percentage share in the workload of the division	Function category	Full-Time Equivalent	Financial cost of the function . thousand of MDL/year	Recommendation (more details in the report)
	efficiently.				maintenance improved					
2.2	Establish spending caps in accordance with the type of spending (economic classification) and spending programs (special and basic funds).	*	*	Courts of law	Spending caps established	5%	External support	0.10	17.138	Preserve
2.3	Accumulate, check and total draft budgets of courts, including for PSC and budget.	*	*	Ministry of Justice	Draft budget totaled and submitted for approval	10%	External support	0.20	34.275	Change the beneficiary
2.4	Develop, update and report on the implementation of actions planned in the MTBF.		*	Ministry of Justice	Actions from the MTBF developed, reports submitted	5%	External support	0.10	17.138	Preserve
2.5	Participate in the working group for developing the 2014-2016 MTBF for the Ministry of Justice.		*	Ministry of Justice	MTBF for 2014-2016 developed	2%	External support	0.04	6.855	Preserve

Code	Functions	The function is established by Regulations	The function is established by another source	Beneficiary of the function	Function outcome	Percentage share in the workload of the division	Function category	Full-Time Equivalent	Financial cost of the function . thousand of MDL/year	Recommendation (more details in the report)
2.6	Examine requests and motions received during the year from courts, identify additional funding needs and justify them during the adjustment of the state budget.	*	*	Courts of law	Requests examined, additional funding needs identified	15%	External support	0.30	51.413	Preserve
2.7	Check and consolidate secondary plans and prepare the master plan accompanied with the informative note about the amendments to the monthly financial plans of courts.	*	*	Courts of law	Amendments to the financial plans made	10%	External support	0.20	34.275	Preserve
2.8	Collect, check and total spending estimations, funding plans and calculations attached to the approved budget by courts.	*	*	Ministry of Justice	Estimates and funding plans approved	10%	External support	0.20	34.275	Preserve
2.9	Monitor staffing plans of courts, collect and submit them for approval.	*	*	Courts of law	Staff plans approved	8%	External coordination	0.16	27.420	Preserve
3.0	<b>COURTS ADMINISTRATION DIRECTORATE: LEGAL AND PROCEDURAL WORK (3 POSITIONS)</b>									



Code	Functions	The function is established by Regulations	The function is established by another source	Beneficiary of the function	Function outcome	Percent age share in the workload of the division	Function category	Full-Time Equivalent	Financial cost of the function . thousand of MDL/year	Recommendation (more details in the report)
3.1	Initiate and ensure disciplinary procedures in respect of the judiciary at the request of legal entities (assistance for the Ministry of Justice in these processes).	Not provided for	Not provided for	Ministry of Justice	Sanctions applied by SCM	40%	External support	1.20	205.650	Remove
3.2	Represent the Ministry of Justice in court and prepare procedural documents in cases in which the Ministry is a plaintiff or a defendant and in cases related to Laws No. 1545 and No. 87 for judges' one-off benefits and land plots of courts.	Not provided for	Not provided for	Ministry of Justice, Courts of law	Cases examined	20%	External support	0.60	102.825	Remove
3.3	Manage human resource, namely develop job descriptions and establish performance criteria, assess DJA employees' performance, conduct employment competitions.	Not provided for	Not provided for	Ministry of Justice	Documents delivered	10%	Internal support	0.30	51.413	Preserve or transfer to SCM
3.4	Estimate the training needs of courts, total up them and communicate with NIJ	*		Courts of law, NIJ	Persons trained	4%	External support	0.12	20.565	Preserve

Code	Functions	The function is established by Regulations	The function is established by another source	Beneficiary of the function	Function outcome	Percentage share in the workload of the division	Function category	Full-Time Equivalent	Financial cost of the function . thousand of MDL/year	Recommendation (more details in the report)
	(approving training plans).									
3.5	Approve draft regulatory acts and develop parts of them.	Not provided for	Not provided for	Ministry of Justice	Regulatory acts developed	10%	Participation in policy development	0.30	51.413	Remove
3.6	Develop the annual report of DJA.	Not provided for	Not provided for	DJA	Annual report	1%	Internal support	0.03	5.141	Strengthen
3.7	Examine citizens' petitions related to breaches of time frames and receipts of compensations for damages.	Not provided for	Not provided for	Ministry of Justice	Petitions examined	15%	Services	0.45	77.119	Preserve
4.0	<b>ADMINISTRATION OF DJA (CHIEF)</b>									
4.1	Manage budgeting activities in DJA.	*		Courts of law	Caps allocated, the budget totaled and proposed for approval	5%	Internal coordination	0.05	8.569	Preserve
4.10	Participate in other	Not	Not	Ministry of	Commissions'	15%	External	0.15	25.706	Reduce

Code	Functions	The function is established by Regulations	The function is established by another source	Beneficiary of the function	Function outcome	Percentage share in the workload of the division	Function category	Full-Time Equivalent	Financial cost of the function . thousand of MDL/year	Recommendation (more details in the report)
	extracurricular activities, commissions and working groups.	provided for	provided for	Justice	meetings held		support			
4.11	Represent the Ministry of Justice in court proceedings.	Not provided for	Not provided for	Ministry of Justice	Decisions approved	10%	External support	0.10	17.138	Remove
4.2	Manage judicial statistics reporting activities.	*		Ministry of Justice, CSM	Report published on the Web site of the Ministry of Justice	5%	Internal coordination	0.05	8.569	Preserve
4.3	Ensure training for the staff of the administrative staff of courts of law; provide methodological assistance and train courts' staff to use the judicial information system.	*		Courts of law	Persons trained	10%	External support	0.10	17.138	Preserve
4.4	Schedule appointments for citizens and examine their petitions within its competence.	Not provided for	Not provided for	Individuals	Petitions examined and answered	2%	Services	0.02	3.428	Preserve

Code	Functions	The function is established by Regulations	The function is established by another source	Beneficiary of the function	Function outcome	Percentage share in the workload of the division	Function category	Full-Time Equivalent	Financial cost of the function . thousand of MDL/year	Recommendation (more details in the report)
4.5	Participate in implementing the judicial information system in all courts of law.	*		Ministry of Justice, Courts of law	Information system functional	8%	External support	0.08	13.710	Preserve
4.6	Submit courts' staff lists to the Ministry of Justice for approval	*	*	Courts of law	Staff lists approved	5%	External support	0.05	8.569	Change the beneficiary (CSM)
4.7	Represent DJA in relations with other bodies, entities and organizations.	Not provided for	Not provided for	DJA	Relations maintained	5%	Internal coordination	0.05	8.569	Preserve
4.8	Prepare materials related to judges' work.	Not provided for	Not provided for	Ministry of Justice	Sanctions applied	15%	External support	0.15	25.706	Change the beneficiary (CSM)
4.9	Examine petitions, including those that do not fall within the competence of DJA.	Not provided for	Not provided for	Individuals	Petitions examined and answered	20%	Services	0.20	34.275	Remove

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### ANNEX 3. TEMPLATE FUNCTION IDENTIFICATION QUESTIONNAIRE

1. Direction/division: \_\_\_\_\_
2. Respondent's name: \_\_\_\_\_
3. Staff number according to the staff list: \_\_\_\_\_
4. Actual staff number at the moment of filling out the questionnaire: \_\_\_\_\_
5. **WRITE DOWN 3 MAIN TASKS OF THE DIRECTORATE/DIVISION FOR THE CURRENT WEEK.** Write them in the reversed order of their importance:

I	
II	
III	

**Table 1. Identification of the functions of the directorate, division or other structural unit**

6	7	8		9	10	11
No.	Function	The function is established by:		Beneficiary of the function	Function outcome	Workload, %
		DJA’s Regulations	Order of the chief, job description			
PART 1. FUNCTIONS THAT HAVE A DOCUMENTED (LEGAL) SOURCE						
1						
2						
3						
4						
5						
6						
7						
PART 2. FUNCTIONS THAT ARE NOT EXPLICITLY ESTABLISHED BUT ARE CARRIED OUT						
8						
9						
10						
	TOTAL					100%

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## ANNEX 4. FUNCTION COST ESTIMATION METHODOLOGY

The main instrumental variables in estimating the annual costs of functions in MDL are:

- The number of filled positions (including the administrative and support staff) in the respective division/directorate (POD);
- The total number of filled positions in DJA (PERS);
- The budget of the entity spent in 2012;
- Share of the effort allocated for the function in the total effort of the directorate (EF, %, the last column of the functions table in the function identification questionnaire).

All calculations were carried out in Excel applying the following procedure

1. Calculate the average staff number that carries out this function (NMED). For that, multiply POD by EF. For example, if the function A is carried out in a directorate with 5 staff and it takes 37 percent of their work time, the average staff number NMED is:  $5 \text{ (staff in the directorate)} \times 37\% \text{ (of the work time)} = 1.85$  persons, which amounts to the statement that 1.85 persons carry out the function A all the time.
2. Calculate the percentage of these persons in the total number of the employees in the entity (NMED/PERS). For example, if there are 10 employees in the entity, then the function A takes  $\text{NMED/PERS} = 1.85/10 = 18.5\%$  of the total effort of the entity.
3. The annual cost in MDL of this function will be  $\text{COST} = \text{budget} \times \text{NMED/PERS}$ .